

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS, d.b.a. ACERTHORN

PLAINTIFF

VS.

Case 3:21-cv-04184-JSC

KARL POLANO, d.b.a. SOFIANNP, ALPHABET INC.,
DISCORD INC., FACEBOOK INC.,
JOHN DOE #1, d.b.a. INITIATIVEKOOKIE, and
JOHN DOE #2, d.b.a. TGP482,

DEFENDANTS

MOTION FOR ISSUANCE OF SUBPOENAE DUCES TECUM

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Motion for Issuance of Subpoenae Duces Tecum in the above-styled action. This motion should be heard on or before September 9, 2021 at around 9:00AM Pacific time.

1. There are two defendants in this case who are John Doe Defendants. I do not know the real names or addresses of either of them.
2. Parties may seek discovery prior to a 26(f) conference "when authorized by ... court order." See Fed.R.Civ.P. 26(d)(1). Courts are historically willing to authorize pre-26(f) discovery when that discovery is necessary to identify and locate otherwise unknown defendants, so they may be served with process. See <https://semmes.com/law-updates/malibu-media-v-john-doe/> ("Federal Court Permits Expedited Discovery to Identify Defendant in Alleged Copyright Infringement Case").
3. To justify a pre-discovery subpoena, there must be a good faith belief that the district court in question will have personal jurisdiction over the putative defendant. "Mere conjecture or speculation" is not enough to justify jurisdictional discovery. See *Malibu Media, LLC v. Doe*, 64 F. Supp. 3d 51, 53 (Dist. of DC 2014). In this case, this Court has personal jurisdiction over both of the John Doe Defendants; see Doc. 11, ¶ 11 & ¶¶ 66-68¹. Furthermore, "Defendant[s] must be identified before this suit can progress further." See *id* at 54.
4. John Doe #2, whose primary online alias is TGP482, has issued a DMCA Takedown against me (see Doc. 11, ¶¶ 51-56). In doing so, he had to provide YouTube with his real name and address. He is also a Tier 1 subscriber (or "T1 Sub" for short) to Karl Polano on Twitch (see **Exhibit A**²), meaning Amazon.com, Inc. (the parent company of Twitch) necessarily has his

1 Remember that, to get my case in the door, the Court must accept all factual allegations as true. See *Bell Atlantic Corp. v. Twombly*, 550 US 544 (2007); see also *Denton v. Hernandez*, 504 US 25 (1992). This means that this court must accept for the time being that the individual defendants are indeed collaborating with one another, meaning it must accept for the time being that it has personal jurisdiction over the John Doe defendants.

2 I am also a member of two Discord servers besides my own. To protect my privacy, I have chosen to cover those two Discord servers with red circles. Since these two Discord servers have no relevance to this case and only serve to give the individual defendants another means of potentially doxxing me, I feel this censorship is in my best interest while providing no prejudice to the Defendants.

billing information. Therefore, we can subpoena both Alphabet Inc. and Amazon.com Inc., demanding that they provide his real name and address that they have on file for him, so that he may be served with process.

5. Amazon.com Inc. can be served with a copy of this subpoenae at the following name and address:

Amazon.com, Inc.
Corporation Service Company
Attn: Legal Department – Legal Process
300 Deschutes Way SW,
Suite 208 MC-CSC1
Tumwater, WA 98501

6. For InitiativeKookie, it may be more difficult. He certainly has engaged in quite a lot of activity on YouTube, Discord, Twitch, and Reddit. However, there is no activity I know for a fact he engaged in where he would have given any of these sites his real name and address, or where he would have paid any money to the site (thereby giving his billing information). However, there is no reason for us not to give it the old college try.

7. Therefore, I ask the Court to issue subpoenas to Alphabet Inc. and Discord Inc. asking them to hand over any of the following information they may have:

(a) To Alphabet Inc., the gmail address associated with the YouTube channel found at the URL of <https://www.youtube.com/channel/UC0J2MbjZk7dhLW2H4txk33g> (which is the current channel used by InitiativeKookie).

(b) To Discord Inc., the primary email address associated with the Discord account InitiativeKookie#7766.

(c) The name and address of that account holder, if known. If he has made a purchase for any premium goods or services with either company, the name and address found in the billing information in the most recent transaction will suffice.

(d) Every IP address that he has used in the past five years when using the services in any way, shape, or form.

(e) Any phone numbers (including whether or not they are verified) he has used to access any part of their services in the past five years.

(f) Any mobile identification number³, if known, that he has used to access their services in the past five years.

3 A mobile identification number and computer identification number are two immutable numbers associated with the computer or smartphone. They are usually embedded into the motherboard and therefore cannot usually be changed.

(g) Any computer identification number³, if known, that he has used to access their services in the past five years.

(h) Any email addresses, other than his primary one, that have been associated with the account in the past five years.

(i) Any other social media accounts – such as on Facebook or Twitter – that might be associated with the YouTube or Discord accounts, if known.

(j) Any other information that Alphabet or Discord, in their good faith, believes could be helpful in locating or tracking InitiativeKookie.

8. This means there are *four* subpoenas that need to be issued: Alphabet Inc. needs to be subpoenaed to hand over TGP482's name and address. Amazon.com Inc. needs to be subpoenaed to hand over TGP482's name and address. Alphabet Inc. needs to be subpoenaed to hand over any information that might be useful in finding InitiativeKookie, and Discord Inc. needs to be subpoenaed to hand over any information that might be useful in finding InitiativeKookie.

9. By issuing these subpoenas early, we can hopefully save a lot of trouble later down the line. I therefore am hopeful for an expeditious granting of this motion.

10. So requested on this, the 29th day of July, 2021.

/s/ David Stebbins
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